

## **State of Georgia Office of the Inspector General**

### **Directive 3-5-1**

<b>TITLE: Open Records Act Procedures</b>
<b>DATE: November 1, 2003</b>
<b>PURPOSE: To define the policies and procedures for OIG production of records under the Open Records Act, O.C.G.A. 50-18-70 thru 76</b>

**I. Background:** The purpose of the Open Records Act is both to encourage public access to information and to foster confidence in government through openness to the public. The intent of the General Assembly was to afford to the public at large a right of access to government records generally, while permitting some narrow categories of information to be withheld where nondisclosure was believed to be in the public interest.

**II. General:** The starting place for the Open Records Act is that all records prepared and maintained or received in the course of the operation of the agency are presumed to be open for public inspection and copying. This applies to all records compiled by OIG in the performance of the office mission, including but not limited to; documents, books, tapes, photographs, letters, papers, computer records and reports.

### **III. The Open Records Process:**

**A. Release of Records:** The OIG Records Custodian is generally responsible for compliance with the Open Records Act. In OIG the responsible person for compliance with the Act is the Inspector General. The Inspector General will designate OIG staff as operational needs dictate to assist in the production of records to requestors.

**(1) Reports of Closed Investigations:** After submission to the Governor, Reports of Investigations will be released by close of business the following day.

**B. Procedures for Release of Records:** There must be a response to the requester within three business days of OIG receipt of the request. The response should include the date of the request. A written request for open records is not required by law. However, OIG should attempt to get all requests in writing to eliminate any dispute as to what was requested or when the request was made. If the requestor insists on making a verbal request, the OIG Open Records Act Log Sheet will be completed by the staff person receiving the request. A copy of the OIG Open Records Act Log Sheet is appended to this manual chapter as Attachment III-D.

**C. Record Availability:** When records are readily available and subject to public access, they must be provided immediately. When this is not the case, the custodian of records is allowed a "reasonable amount of time" to determine whether the requested

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records are subject to access under the law. In no event shall this time exceed three business days. The records custodian must respond in one of three ways:

(1) If the records exist, are available, and subject to public disclosure under the Open Records Act, the records custodian must permit inspection and copying.

(2) If the records exist and are subject to public disclosure but are not available within three business days of the request, a written description of such records and a timetable for their inspection and copying must be provided within the three-day period.

(3) If access to a record is denied in whole or in part, the records custodian must provide, in writing, the specific legal authority exempting such record from release.

**D. Electronic Records:** Records maintained by computer shall be made available where practical by electronic means. This is subject to reasonable security restrictions preventing access to records not requested and/or records exempt from release.

**E. Appropriate Charges:** OIG will not charge for Open Records Act requests taking less than 1/4 hour to comply to. Any request taking over 1/4 will be subject to appropriate charges.

(1) **Fee Notification Requirement:** When a fee is to be charged, OIG must notify the requester of the estimated costs associated with processing the records within the three day period and prior to fulfilling the request.

(2) **Optional Charges:** OIG may charge a reasonable fee for administrative costs associated with the search, retrieval, review, copying, reproduction and mailing of public records. However OIG must provide copies of requested documents "in the most economical means available." For any charge, it is OIG's burden to demonstrate the charge meets the standard. OIG may charge \$0.25 for each page copied. Hourly charges for administrative tasks may not exceed the salary of the lowest paid, full-time employee who has the skill to perform the request. Where the information requested is maintained by computer, OIG may charge the actual cost of computer disks or tapes onto which the data is transferred. This also applies to the actual cost of any audio/visual tapes copied.

(3) If OIG determines a fee will be charged, the OIG Open Records Cost Worksheet will be completed. A copy of this worksheet is appended to this manual chapter as Attachment III-E. When completed electronically the worksheet form calculates the costs associated with production of the requested record(s) including adding costs.

**IV. Exemptions:** Some information contained in OIG files will be exempt from public disclosure, such as whistleblowers and other (i.e. certain kinds of records specifically exempted in the Open Records Act). Note: some records that may be exempted from routine disclosure must be disclosed to news media representatives making an Open Records Act request (i.e. social security numbers).

**V: Non-Compliance Penalty:** In state law, any person who knowingly or willfully violates the provisions of the Open Records Act by failing or refusing to provide access to records

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**not subject to an exception under the Open Records Act, or by failing or refusing to provide access to records within the time limits set forth in the Open Records Act, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$100.**

**VI. Case File Related Open Records Act Requests: All Open Records Act requests for documents relating to an OIG official case file and documents pertaining to responses to those requests will be maintained in the case file. The OIG Complaint Tracking System will also be updated with relevant data regarding the Open Records Act request.**

**VII. Records Retention: The retention of public records is a statutory requirement described in the Georgia Records Act. OIG staff must ensure that records created are retained as long as required by an approved retention schedule. These schedules are created under the direction of the Archives and History Division of the Georgia Secretary of State, with the approval of the State Records Committee. OIG has established records retention procedures as described in Directive 3-7-1 (OIG Records Retention). The Georgia Records Act requires records of Open Records Act requests and correspondence are to be retained for seven years.**

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